



**UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
097115,229	07/14/98	SCHRELEN	A SLVAY-3741.0

SPENCER & FRANK
SUITE 300 EAST
1100 NEW YORK AVENUE N W
WASHINGTON DC 20005-3955

IM71/0218

EXAMINER
NOLD, C

ART UNIT	PAPER NUMBER
1772	4

DATE MAILED: 02/18/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/115,229

Applicant(s)
Scheelen et al

Examiner
Charles R. Nold

Group Art Unit
1772



☒ Responsive to communication(s) filed on application filing

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-11 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-11 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 3

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

Art Unit:

DETAILED ACTION

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 8-9 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. There are no definitive process limitation in claims 8-9.

3. ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-3, 5 are rejected under 35 U.S.C. 102(b) as being anticipated by US 5,049,441 Jenkins et al. Jenkins et al discloses HDPE compositions containing HDPE and talc, said talc in an amount of about 1 percent, col. 2, line 38. The size of the talc is .5 to 50 microns.

Art Unit:

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-7 and 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jenkins et al in view of WO 85/03194 ('134"). Jenkins et al is relied upon as discussed above. Jenkins et al does not disclose pipes.

'134 discloses HDPE compositions for forming pipes, see page 7, lines 18 and 24. Talc is present in an amount of from 1.0 to 6.0 phr, page 6, line 17. Pellets are disclosed, page 8, line 7.

The secondary reference demonstrates that it is known to form pipes out of the same composition as that of the primary reference. Thus it would have been obvious to one having ordinary skill in the art to form a pipe out of the composition of Jenkins et al.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles R. Nold whose telephone number is (703) 308-4416.

C R Nold
Charles R. Nold
Primary Examiner
Art Unit 1772